

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

MARTÍN JONATHAN BATALLA VIDAL,  
et al.,

*Plaintiffs,*

v.

ALEJANDRO MAYORKAS, Secretary,  
Department of Homeland Security, et al.,

*Defendants.*

**MOTION FOR LEAVE TO FILE  
LAW STUDENT INTERN  
APPEARANCES**

Case No. 1:16-cv-04756 (NGG)(VMS)

**MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR LEAVE TO  
FILE LAW STUDENT APPEARANCES**

Plaintiffs move this Court pursuant to the Eastern District of New York Student Practice Rule, E.D.N.Y. Admin. Order No. 2019-07, to grant Kevin Cheng leave to appear as a law student in the above-captioned matter under the supervision of attorneys Michael Wishnie and Muneer Ahmad. Mr. Cheng is enrolled in the Worker and Immigrant Rights Advocacy Clinic (WIRAC) within the Jerome N. Frank Legal Services Organization (LSO) at Yale Law School.

Plaintiffs have authorized Mr. Cheng to represent them in this matter, including by appearing in court under the supervision of clinical faculty. Pursuant to the Eastern District of New York Student Practice Rule, a student who satisfies several requirements may appear in civil proceedings before the United States District Court for the Eastern District of New York without compensation on behalf of any person who has consented in writing to the student intern's appearance. E.D.N.Y. Admin. Order No. 2019-07. The Student Practice Rule requires that a student must "have completed at least two semesters of legal studies." E.D.N.Y. Admin. Order No. 2019-07 § (b)(2). Mr. Cheng is currently in, but has not completed, his second

semester of legal studies. Plaintiffs respectfully request that the two-semester requirement be waived as to Mr. Cheng, so that he may be permitted to appear on their behalf.

### **ARGUMENT**

#### **I. WAIVER OF THE TWO-SEMESTER REQUIREMENT TO PERMIT THE APPEARANCE OF LAW STUDENT KEVIN CHENG IS APPROPRIATE IN THIS CASE.**

The Student Practice Rule, E.D.N.Y. Admin. Order No. 2019-07, requires that a law student appearing in this Court must have completed at least two semesters of legal studies, *id.* § (b)(2). Mr. Cheng is a law student enrolled in his second semester of law school, which began in January 2022 and will end in May 2022. At this time, Mr. Cheng has not yet completed two semesters of legal education. However, in light of his experience and the extensive supervision that all law student interns receive on this matter, this Court should nonetheless permit Mr. Cheng to appear in this case.

Federal courts routinely waive semester requirements for law student interns to allow them to appear in civil cases. *See, e.g., Doe v. United States*, No. 18-185, ECF No. 34 (2d Cir. 2018) (granting request for leave for three law student interns to appear before completing the four semesters of studies required by local rule); *Batalla Vidal v. Nielsen*, No. 18-485, ECF No. 580 (2d Cir. 2018) (same, as to two law students in their third semester of studies); *Liberian Cmty. Assoc. of Conn. v. Malloy*, No. 17-1558, ECF No. 40 (2d Cir. 2017) (same, as to one law student intern in her third semester of studies); *Maldonado v. Holder*, No. 10-3259, ECF No. 403 (2d Cir. 2014) (granting leave for law student to present oral argument before completing four semesters of studies, as required by local rule); *NAACP v. Bureau of the Census*, No. 19-1863, ECF No. 33 (4th Cir. 2019) (granting request for leave for three law student interns to appear before completing the four semesters of studies required by local rule); *Black Veterans Project v. U.S. Dept. of Veterans Aff.*, No. 3:21-cv-00935-VLB, ECF No. 31 (requesting leave to appear in

district court on behalf of one law student in second semester of studies, where local rule requires completion of two semesters) (D.Conn. Mar. 1, 2022), ECF No. 33 (order granting leave) (D.Conn. Mar. 3, 2022); *Olson v. Mayorkas*, No. 3:21-cv-1631-VLB, ECF No. 30 (D. Conn. Feb. 12, 2022) (same request), ECF No. 31 (order granting leave) (D. Conn. Feb. 15, 2022); *Manker v. Harker*, No. 3:18-cv-00372, ECF No. 164 (D. Conn. Feb. 23, 2021) (same, as to one student in his second semester of studies); *NAACP v. Merrill*, No. 3:18-cv-01094-JBA-PWH-JMW, ECF No. 70 (D. Conn. Feb. 25, 2020) (same, as to three law students in their second semester of studies); *Kennedy v. McCarthy*, No. 3:16-cv-2010-CSH, ECF No. 144 (D. Conn. Feb. 20, 2020) (same, as to two law students in their second semester of studies).

Mr. Cheng has significant legal experience through his clinical education and work experiences. As a first-year law student at Yale Law School in the Worker and Immigrant Rights Advocacy Clinic (WIRAC), Mr. Cheng works under the close supervision of attorneys Michael Wishnie and Muneer Ahmed. *See* Ex. D to Motion for Leave to File Law Student Appearances, Law Student Intern Appearance Form for Kevin Cheng. In WIRAC, Mr. Cheng receives specialized education in immigration and labor law, as well as training in various aspects of federal civil litigation and professional responsibility. This includes Mr. Cheng's required enrollment in a two-credit, weekly seminar focused on lawyering and practice, as well as a two-credit fieldwork course. Mr. Cheng joined the *Batalla Vidal* team on January 24, 2022, and has familiarized himself with the factual background and procedural posture of this case. He has participated in weekly strategy meetings on the case, conducted legal research, and helped draft the Pre-Motion Conference Letter submitted to this Court on March 23, 2022. He is working with other student members of the clinic, and supervised by attorneys Michael Wishnie and Muneer Ahmad, on all matters relating to this case.

At Yale Law School, Mr. Cheng has completed coursework in the following fundamental subjects: Civil Procedure, Criminal Law, Contracts, and Constitutional Law. He has further developed his legal knowledge through his work with the Capital Assistance Project, which allows students to provide substantive legal research and writing support for death penalty practitioners around the country, and as an editor of the Yale Journal on Regulation.

Before attending Yale Law School, Mr. Cheng worked at the nonprofit Brooklyn Community Bail Fund (now Envision Freedom Fund) where he conducted legal research under the supervision of an attorney, helped draft and edit the organization's bylaws, and worked with public defenders and immigration attorneys in Brooklyn and Manhattan to help pay bail and immigration bond for over 4,500 indigent individuals.

If permitted to appear, Mr. Cheng would work under the guidance of supervising attorneys who satisfy the requirements of the Eastern District of New York Student Practice Rule § (c). Close supervision would achieve the essential purposes of Eastern District of New York Student Practice Rule: to ensure competent and ethical representation of clients that comports with the Federal Rules of Criminal and Civil Procedure and Evidence and the New York Rules of Professional Conduct.

**II. MR. CHENG SATISFIES ALL OTHER REQUIREMENTS TO APPEAR AS A LAW STUDENT INTERN IN THE INSTANT MATTER.**

Except for the criteria that he has completed his second semester of law school, Mr. Cheng satisfies all the requirements of Eastern District of New York Student Practice Rule to represent Plaintiffs in their civil proceedings. E.D.N.Y. Admin. Order No. 2019-07. He is enrolled in good standing in a law school approved by the American Bar Association. *Compare id.* § (b)(1), *with* Ex. D to Motion for Leave to File Law Student Appearances. Law Student Intern Appearance Form for Kevin Cheng. Mr. Cheng has been introduced to the Court by the

supervising attorneys, Michael Wishnie and Muneer Ahmad *Compare* E.D.N.Y. Admin. Order No. 2019-07 § (c), *with* Ex. D to Motion for Leave to File Law Student Appearances. He is neither employed by nor receiving compensation from clients in this case. E.D.N.Y. Admin. Order No. 2019-07 § (d)(3).

### **CONCLUSION**

In light of his satisfaction of other requirements under the local rule, his legal experience, and his enrollment in a clinical program with competent faculty supervision, Plaintiffs respectfully request that this Court issue an order permitting Kevin Cheng to appear as a law student intern under the supervision of attorneys Michael Wishnie and Muneer Ahmad in the above-captioned matter.

Dated: 4/20/2022

Respectfully submitted,

/s/ Michael J. Wishnie

Michael J. Wishnie, Esq. (MW 1952)

Muneer I. Ahmad, Esq. (MA 9360)

Jerome N. Frank Legal Services Organization

P.O. Box 209090

New Haven, CT 06520

P: (203) 432-4800

F: (203) 432-1426

**CERTIFICATION OF SERVICE**

I hereby certify that on April 20, 2022, a copy of the foregoing MOTION FOR LEAVE FOR LAW STUDENT INTERN TO APPEAR AND ATTACHED LAW STUDENT INTERN APPEARANCE was filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF system.

/s/ Michael J. Wishnie

Michael J. Wishnie, Esq. (MW 1952)